In the High Court of Punjab and Haryana at Chandigarh.

Civil Writ Petition No.18072 of 2005.

Date of decision:7.11.2006.

The Phagwara Cane Growers Co-op., Society Limited, Phagwara.

...Petitioner.

Versus

The State of Punjab and others.

...Respondents.

...

Coram: Hon'ble Mr. Justice S. N. Aggarwal.

...

Present: Mr.D.S.Patwalia and Mr.R.K.Sharma Advocates for the petitioner.
Mr.T.S.Chauhan, Additional Advocate General,Punjab for respondent Nos.1 to 5.
Mr.H.S.Mattewal, Senior Advocate with Mr.R.S.Riar Advocate for respondent No.6.

Judgment.

S. N. Aggarwal, J.

Civil Writ Petition No.18072 of 2005 (The Phagwara Cane Growers Cooperative Society Limited, Phagwara Versus State of Punjab and others) and Civil Writ Petition No.4226 of 2006 (The Phillaur Cane Growers Co-operative Society Limited, Phillaur Versus The State of Punjab and others) are coming up for decision as common questions of law and facts are involved in both these writ petitions. The facts are,however, taken up from Civil Writ Petition No.18072 of 2005.

The facts are that the sugar factory located at Phagwara was earlier run by M/S Oswal Agro Mills Limited, Phagwara but, later on, it was taken over by M/S Wahid Sandhar Sugars Limited, Phagwara, respondent No.6 with effect from October,2000. The provisions of Punjab Sugarcane (Regulation of Purchase and Supply) Act,1953 (in short Sugarcane Act of 1953) and the rules known as Punjab Sugarcane (Regulation of Purchase and Supply) Rules,1958 (in short Sugarcane Rules of 1958) are applicable for conducting the functioning of the sugar factories in Punjab including the sugar factory owned by respondent No.6. In order to regulate the supply of sugarcane to the sugar factories, an area was assigned to each sugar factory under Section 14(4) of the Sugarcane Act of 1953 read with Rule 10 of the Sugarcane Rules of 1958.

The case of the petitioner-society was that in order to supply sugarcane to the sugar factory managed by respondent No.6, a notification dated 1.11.1992 was issued by the State Government by which the petitioner-society along with two other Cane Growers Co-operative Societies i.e. Phillaur Cane Growers Cooperative Society Limited (petitioner in Civil Writ Petition No.4226 of 2006) and Garhshankar Cane Growers Cooperative Society Limited (in short sugarcane societies) were to supply sugarcane crop to the sugar factory earlier owned by M/s Oswal Agro Mills Limited,now owned by respondent No.6. These sugarcane societies covered about 561 villages and an agreement was executed between the petitioner-society and

respondent No.6. The petitioner-society was duly registered.

It was further pleaded by the petitioner-society that on 14.10.1996, a meeting was held under the chairmanship of the then Chief Minister of Punjab and a decision taken in that meeting was communicated by the Cane Commissioner, Punjab, Chandigarh, respondent No.4, through his letter dated 22.10.1996 (Annexure P-2). Under agenda item No.3, it was decided that the mill management would be responsible for the total calendaring of cane for the notified area of the Mill and the management was given liberty to deal with the individual growers directly if they were not the members of the sugarcane societies. Thereafter fresh instructions were issued by respondent No.4 vide letter dated 18.11.1996 (Annexure P-3) vide which the sugar mill management could deal with sugarcane growers directly whether they may be members of the sugarcane society or not. On this, the petitioner-society filed civil writ petition No.18379 of 1996 which was disposed by the Hon'ble Division Bench of this Court vide order dated 6.5.1997 (Annexure P-4) by which the respondents were directed to re-consider its decision communicated vide letters dated 22.10.1996 and 18.11.1996 after affording an opportunity to the concerned parties. The petitioner-society had, thereafter filed a detailed representation dated 19.5.1997 (Annexure P-5).

The further case of the petitioner-society is that the Government remained sitting silent over the matter. There are 15 sugar mills in the State of Punjab in the co-operative sector while there are 7

sugar mills in the private sector,but all were purchasing sugarcane through the sugarcane societies. The petitioner-society came to know for the first time when it received communication dated 26.9.2005 (actually it is dated 23.9.2005) (Annexure P-6) addressed to the petitioner-society and to the companion societies that necessary instructions were issued on 24.6.1997 and they were directed to comply with those instructions. According to these instructions, the sugarcane factories were authorised to purchase sugarcane directly from the sugarcane growers. It was pleaded that the instructions dated 24.6.1997 were never communicated to the petitioners. Hence, it was prayed that the impugned letters dated 24.6.1997 and 26.9.2005 are illegal and void and be set aside.

The factual position was not controverted by respondent No.6. It was admitted that previously the Sugar Mill at Phagwara was owned by M/s.Oswal Agro Mills Limited, Phagwara and it was purchased by respondent No.6 in October,2000. Notification dated 1.1.1992 was issued by the State Government in exercise of its powers conferred by clause 6 of the Sugarcane (Control) Order, 1966 read with notification dated 16.7.1966 published by the Government of Punjab. 561 villages falling in the area of Phagwara, Phillaur and Garhshankar were earmarked for the Sugar Mill of respondent No.6. It was also admitted that in the meeting held under the chairmanship of the Chief Minister,Punjab on 14.10.1996, the sugar mill owners were authorised to purchase the sugarcane directly from the cane growers if they were

not members of sugarcane societies. Even this condition was waived vide letter dated 18.11.1996. The passing of order dated 6.5.1997 in civil writ petition No.18379 of 1996 and in pursuance thereof, filing of representation by the petitioner-society on 19.5.1997 (Annexure P-5) were also not disputed.

The version of respondent No.6 was that on 2.6.1997, a meeting was held by the Government of Punjab with the representatives of both the parties i.e. private sugar mill owners and sugarcane societies and the decision taken therein was communicated by the Cane Commissioner,Punjab vide letter dated 24.6.1997. It was decided in that meeting that sugarcane societies would primarily render advisory services to the sugar mills. It was,however, denied if the petitioner came to know about the order dated 24.6.1997 for the first time only on 26.9.2005 vide letter Annexure P-6. Even the Chief Minister answered in the Punjab Assembly that instructions have been issued by which the owners of private sugar mills could purchase sugarcane directly from the cane growers without involving the sugarcane societies.

It was also pleaded that the petitioner-society is not entitled to any relief as it had failed to discharge its duty. In the year 2002-03, the petitioner-society had entered into an agreement with respondent No.6 for supply of 50 lacs quintals of sugarcane against which they supplied only 34.20 lacs leaving a short fall of 15.72 lacs quintals. Similarly, in the year 2003-04, the petitioner-society had agreed to

supply 37 lacs quintals of sugarcane but only 22.04 lacs quintals of sugarcane was supplied giving a short fall of 14.96 lacs quintals. In the year 2004-05 again, the petitioner society had agreed to supply 22 lacs quintals of sugarcane but it supplied only 18.25 lacs quintals of sugarcane resulting with short fall of 3.69 lacs quintals of sugarcane. Therefore, the petitioner-society was a defaulter for three consecutive years within the meaning of condition No.5 of the agreement in form VIII framed in compliance of Rule 11(3) of the Sugarcane Rules, 1958. Therefore, the petitioner-society has ceased to have a claim to sell sugarcane to respondent No.6.

Even the conduct of petitioner-society was assailed by respondent No.6. It was pleaded that respondent No.6 had addressed letter dated 29.9.2005 to the petitioner-society to submit to the mill-management a complete list of variety-wise and cane growerwise sugarcane surveyed and bonded with them to enable the respondent mill to go ahead with the computerized calendaring of the same and the society was requested to do the needful upto 3.10.2005, but in the emergency meeting held on 3.10.2005, it was decided by the petitioner-society that growerwise survey record or agreement record shall not be given to the management of the mill. It is an essential requirement for the purpose of proper calendaring. Despite reminder,the petitioner-society failed to do. Thereafter respondent No.6 informed the Cane Commissioner who vide his letter dated 18.11.2005 allotted one lac quintals of sugarcane from the area assigned to Bhogpur Sugar Mills.

It was also pleaded that the petitioner-society is instigating the cane growers not to supply sugarcane to the respondent-mill which practice is highly unjust and illegal. Hence dismissal of the writ petition was prayed.

The respondent-State also filed the written statement and contested the case. It was conceded by them that a meeting was held under the chairmanship of Chief Minister on 14.10.1996 the minutes of which were communicated vide circular dated 22.10.1996. In the decision taken, the sugarcane mill owners were given the liberty to purchase the sugarcane directly from the growers but with a condition. Even the said condition was removed later on and it was circulated vide letter dated 18.11.1996. The matter was re-considered after the order of this Court dated 6.5.1997 and conscious decision was taken in the meeting held on 2.6.1997 by the State Government vide which the role of sugarcane societies was held to be advisory in nature. It was asserted that decision communicated vide letter dated 24.6.1997 was taken in the meeting held on 2.6.1997 at the State Government level after hearing both the parties, including the representatives of various sugarcane societies who were present in the said meeting.

The conduct of the petitioner-society was also condemned for not supplying necessary information to the respondent-mill owner which was mandatory under Rule 11(1) and 11(2) of the Sugarcane Rules, 1958.

Another legal objection was taken by the respondent-State

that under Rule 11(8) of the Sugarcane Rules,1958 if there was any dispute between the parties, the same was referable to the Cane Commissioner as Arbitrator whose decision was to be final. It was also asserted that the Punjab Co-operative Sugar Mills including six sugarcane mills in the private sector are purchasing sugarcane directly from the cane growers. Hence, dismissal of writ petition was prayed.

In order to analyse if any of legal rights of the petitioner-society have been infringed by the impugned orders dated 24.6.1997 and 26.9.2005, the provisions of Sugarcane Act of 1953 and Sugarcane Rules, of 1958 were examined. This Court could not find any provision in these statutes by which the sugarcane mill owners can purchase the sugarcane only through the sugarcane societies functioning in the assigned area. As discussed above, area is assigned to a sugar mill under Section 14(4) of the Sugarcane Act of 1953 read with Rule 10 of the Sugarcane Rules of 1958. Section 14 deals with the purchase of sugarcane in the assigned area. Section 14(1) of the Sugarcane Act of 1953 reads as under:-

> "Purchase of cane in assigned area.-(1) A cane-grower or a Cane-growers' Co-operative Society in an assigned area may sell by the date prescribed in this behalf,to the occupier of the factory to which the area is assigned cane grown by the cane-grower or by the members of such Cane-growers' Co-operative Society,as the case may be,not exceeding the quantity prescribed for such grower or Cane-

growers' Co-operative Society".

The perusal of this provision, therefore, clearly reveals that sugarcane can be purchased by the sugar mill owners either from the sugarcane growers or from the sugarcane societies. It is not incumbent upon the sugar mill owners to purchase sugarcane only through the sugarcane societies of the assigned area.

Sub section (2) of Section 14 of the Sugarcane Act of 1953 further lays down that an agreement has to be entered into by the sugar mill owners with sugarcane growers or with sugarcane society as the case may be, in the prescribed proforma. The format of the agreement is laid down in form VIII attached with Sugarcane Rules of 1958. In this form of agreement also, it has been specifically mentioned that the agreement is to be reached between a sugarcane grower/sugarcane society on the one hand and the agent of factory on the other hand. It clearly means that the agreement is to be entered into by the agent of the sugar factory not only with the sugarcane society but it can also be entered into with the sugarcane growers from whom the sugarcane is to be purchased. Form VII is the format of the application to be submitted by the sugarcane grower or sugarcane society for supplying sugarcane to the sugar mill. In this format also, an option has been given to the sugar mill owners. This also indicates that the sugar mill owners have the option to choose either the sugarcane growers or the sugarcane society for purchasing the sugarcane.

No provision of law was brought to my notice under which

the sugarcane society is the only agency through which the sugarcane can be purchased by the sugar mill owners. Therefore, the violation of any statutory provision by the issuance of letters dated 24.6.1997 and 26.9.2005 is not made out by the petitioner-society.

The submission of learned counsel for the petitioner society was that there is a long standing practice by which the sugarcane is purchased by the sugar mill owners only through the sugarcane society. The sugarcane society not only takes care of the interest of sugarcane growers and saves them from exploitation but also ensures regular supply of sugarcane to the sugar mill owners and,therefore, the sugarcane society plays an important role and is a beneficial link between the sugarcane growers and sugar mill owners. For the benefit of both, there is policy of the Government and its revision affects not only the sugarcane societies but also the sugarcane growers.

This submission has been considered. It has not found favour with this court. The policy of purchasing sugarcane by the sugar mill owners through the sugarcane societies was framed by the Government of Punjab for valid reasons. The Government of Punjab has the right to examine whether the said policy has stood the test of time or whether it needs revision. There is nothing bad if the policy is revised by the Government of Punjab for valid reasons. If this policy had been changed by the Government of Punjab arbitrarily or for no reasons,the petitioner-society has a cause to complain but if the Government has changed the policy by recording valid reasons and

after hearing the parties affected by it, then the validity of those reasons has to be examined. If those reasons reveal application of mind by the Government of Punjab and rules out arbitrariness, then no fault can be found with the changed policy merely because it affects the petitioner-society.

In this context, it may be noticed that this policy of giving liberty to the sugar mill owners for purchasing the sugarcane directly from the sugarcane growers was revised by the Government of Punjab by holding a meeting held on 14.10.1996 under the chairmanship of the then Chief Minister of Punjab. The meeting was attended by the Ministers/officers of the concerned departments as also by the sugar mill owners in which agenda item No.3 titled as **elimination of Sugarcane Growers Co-operative Societies** was discussed and it was decided that the mill management would be responsible for the total calendaring of cane for the notified area of the mill and the management was given liberty to deal with the individual growers directly on the condition that those sugarcane growers were not members of the sugarcane societies. This policy decision of the Government was communicated by the Cane Commissioner, Punjab, Chandigarh to all including all the Presidents of the sugarcane societies in the State of Punjab vide letter dated 22.10.1996 (Annexure P-2). By a subsequent communication dated 18.11.1996 (Annexure P-3), the condition that the sugarcane growers should not be members of the sugarcane society was deleted.

On this, the petitioner-society had filed civil writ petition No.18379 of 1996 which was decided by the Hon'ble Division Bench of this Court vide order dated 6.5.1997 (Annexure P-4) and the Government of Punjab was directed to re-consider these two orders after affording an opportunity of hearing to the concerned parties. Thereafter,the petitioner-society had filed a detailed representation dated 19.5.1997 (Annexure P-5) to the Government of Punjab.

Thereafter a meting was held by the Government of Punjab on 2.6.1997 under the chairmanship of the then Chief Minister which was attended by both the parties namely the private sugar mill owners and the office bearers of the sugarcane societies in which the following decisions were taken:-

> "1. Presently, there are 22 sugar mills installed in the State of Punjab, of which 15 are in Coop.Sector and 7 are in private sector. The Coop.Sugar Mills are also registered under the Punjab Coop. Societies Act,1961. The Management of the sugar mill is performing duties of advisory nature such as development, marketing of sugarcane and other problems relating to the farmers etc. The Directors of the Societies are elected members amongst the growers for a specific period. Whereas in case of 7 private/joint sector sugar mills, the Govt. has devised a policy for participating of farmers through their elected representatives called Directors of the sugarcane growers

coop.societies. Presently, the sugarcane growers coop. societies are playing an important role in supplying the feed-back information to the mills, settling disputes relating to the members growers and mills etc. At the same time the responsibilities of the sugar mills have increased manifold on account of transfer of extension and development work from the Department of Agriculture to the sugar mills. They are to compete with advance sugar producing states as well as leading sugar producing countries because their product be at par with the international level from the quality points of view. Therefore, the sugar mill is to develop or procure cane seed with high cane yield and high sugar recovery, to develop and will maintain seed nurseries, to strengthen extension and training programmes for cane growers and extension workers etc.

2. To achieve these objectives, the sugar mills are to adopt modern techniques for monitoring, survey, bonding, calendaring of cane and issue of cane requisition slips through computers for better marketing.

3. For development of cane, it is decided to constitute a Committee at sugar mill level, consisting of General Manager of the sugar mills, President of the cane growers coop. societies and a representative of Cane Commissioner, Punjab. The Committee will meet

occasionally for cane development programmes. The Committee will solve problems relating to cane growers with the mills. The cane development amount ear-marked by the sugar mills alongwith amount of sugarcane coop. societies and the Department of Agriculture will be planned jointly and spent by the said Committee.

4. The sugarcane growers coop.societies will primarily render advisory services to the sugar mills as it is being done in the Coop.Sugar Mills."

This decision was communicated to the concerned persons vide impugned letter dated 24.6.1997 (Annexure P-6).

Its perusal therefore, clearly reveals that in compliance with the order passed by this Court on 6.5.1997 in the writ petition filed by the petitioner-society (civil writ petition No.18379 of 1996), orders dated 22.10.1996,(passed in the meeting held on 14.10.1996) and letter dated 18.11.1996 were re-considered by the Government of Punjab after affording an opportunity of hearing to the concerned parties. The meeting held on 2.6.1997 was attended by the representatives of sugarcane societies and the decisions were taken after hearing them and by recording valid reasons.

Respondent No.6 was facing some problems from the petitioner-society on which respondent No.6 had made a detailed a representation to the Government of Punjab on 22.9.2005 (Annexure R-6) for requiring the Cane Commissioner (respondent No.4) to

implement instructions dated 24.6.1997 on which the Government of Punjab issued impugned order dated 23.9.2005 or 26.9.2005 (Annexure P-6) by which the petitioner-society was directed to comply with the contents of letter dated 24.6.1997. It means, therefore, that the decision taken by the Government of Punjab in the meeting held on 2.6.1997 and communicated vide letter dated 24.6.1997 was reiterated by the Government of Punjab vide letter dated 23.9.2005.

A starred question No.1364 was tabled by four members of the Legislative Assembly asking the Chief Minister to inform them if the Government had issued any instructions for the purchase of sugarcane by the private mills directly from the farmers without involving the sugarcane societies. The Chief Minister,Punjab answered this question in the affirmative. This also reveals that the Government had revised the earlier policy by recording reasons and the sugar mill owners were authorized to purchase sugarcane directly from the sugarcane growers without involving the sugarcane societies.

The submission of learned counsel for the petitioner-society was that letter dated 24.6.1997 was never communicated to the sugarcane societies or for that matter to the petitioner-society. Had this letter dated 24.6.1997 been communicated,then respondent No.6 would not have purchased the sugarcane through the agency of the petitioner-society. However, even according to the case of respondent No.6 as pleaded in the written statement, they had purchased the sugarcane through the petitioner-society even for the crop seasons of 2002-03,

2003-04 and 2004-05. It was also submitted that if this letter had come into force, the Cane Commissioner, respondent No.4 would not have issued letter dated 6.10.1999 (Annexure P-7) requiring the mill owners to enter into an agreement with the sugarcane societies in their assigned areas for the purchase of sugarcane. The subsequent letter dated 29.11.1999 (Anneuxre P-8) also indicates that no such letter dated 24.6.1997 was released by the Government of Punjab. Reference was also made to the letter dated 6.11.1997 (Annexure R-5) by which the Government of Punjab withdrew letter dated 14.11.1996 (18.11.1996). It was submitted that if the letter dated 24.6.1997 had come into existence, then the Government would not have issued letter dated 6.11.1997 (Annexure R-5) to repeal its letter dated 18.11.1996. For all these reasons, the submission of learned counsel for the petitioner-society was that the impugned order dated 24.6.1997 was never released by the Government of Punjab.

This submission has been considered. Letter dated 24.6.1997 is based on the meeting held by the Government of Punjab on 2.6.1997. This meeting was held in compliance with the order of this Court passed on 6.5.1997 in Civil Writ Petition No.18369 of 1996 which was filed by the petitioner-society. This Court had directed the Government of Punjab to re-consider the earlier orders after affording an opportunity of hearing to the concerned parties. After passing the order by this Court and in order to ensure that the petitioner-society gets an opportunity of hearing, the petitioner-society had filed

representation dated 19.5.1997 (Annexure P-5). In the meeting held on 2.6.1997, both the parties i.e. sugar mill owners and the sugarcane societies were heard. Therefore, the petitioner-society cannot be heard saying that it was not aware either of the meeting held by the Government of Punjab on 2.6.1997 or about the communication of the proceedings of that meeting vide communication dated 24.6.1997. Therefore, this submission of learned counsel for the petitioner is repelled that the letter dated 24.6.1997 was never communicated to them. Even otherwise meeting dated 2.6.1997 was attended by the representatives of the sugarcane societies and since the petitioner-Society had made a representation specifically after the passing of the order by this Court,therefore, the said meeting must have been attended by the petitioner society.

In any case, letter dated 24.6.1997 contains the policy decision of the Government of Punjab by which the role of sugarcane societies was curtailed to that of advisory nature only. Therefore, by this policy decision, the earlier policy decision was reversed. The reversal has not been made by the Government of Punjab arbitrarily or without hearing the affected parties. It was passed after hearing the concerned parties and by recording valid reasons (reproduced above). It has been reiterated by the Chief Minister of Punjab in the Punjab Assembly. It has been communicated to the petitioner-society vide letter dated 23.9.2005 (Annexure P-6). The policy decision communicated vide impugned orders dated 24.6.1997 and 23.9.2005

cannot be set aside simply on the asking of the petitioner-society. The petitioner-society has to make out a case to show that these orders have either infringed the legal rights of the petitioner-society or that these policy decisions have been taken arbitrarily but the petitioner-society has miserably failed to point out any of these situations.

The respondent-State has pleaded that after the issuance of letter dated 24.6.1997, it was the mutual understanding of the sugar mill owners and the sugarcane societies for settling the supply and purchase of sugarcane as per their convenience. Therefore, merely because respondent No.6 had been entering into agreement for supply and purchase of sugarcane with the petitioner society and other sugarcane societies, it cannot be taken to mean that the letter dated 24.6.1997 was not issued. For the same reasons, letters Annexures P-8 and P-9 cannot be given any weight. Similarly, letter, Annexure R-5, loses its meaning when obviously a meeting was held on 2.6.1997 and decisions were taken after hearing both the parties.

Now let us see if the petitioner society had been supplying the sugarcane to respondent No.6 as per the agreement in the years 2002 to 2005. The submission of the learned counsel for the petitioner-society was that the petitioner-society had been supplying sugarcane to respondent No.6 regularly. Respondent No.6 in the written statement has seriously complained that the petitioner-Society had completely failed to supply sugarcane to the sugar mill owned by respondent No.6 as per agreement entered into between the two. The following table

would show that the required quantity of sugarcane was never supplied by the petitioner-society to respondent No.6.

Year.	Sugarcane demanded.	Sugarcane Supplied.	Short fall
2002-03	50 lacs quintals	34.28 lacs quintals	15.72 lacs quintals.
2003-04	37 lacs quintals	22.04 lacs quintals	14.96 lacs quintals.
2004-05	22 lacs quintals	18.25 lacs quintals.	3.69 lacs quintals.

These facts were pleaded by respondent No.6 and not controverted by the petitioner society by filing replication nor the reasons have been given for the short supply.

The table clearly reveals that the petitioner-society had failed to supply the agreed quantity of sugarcane to respondent No.6. It has violated condition No.5 of the agreement the form of which is prescribed under Rule 11(3) of the Sugarcane Rules of 1958. Condition No.5 of this agreement reads as under:-

> " In case the first party wilfully fails to supply cane to the second party on three consecutive occasions in accordance with the requisition made by the second party, the first party shall cease to have a claim to sell cane to the second party."

Therefore, the petitioner-society has ceased to have any claim to sell sugarcane to respondent No.6.

The petitioner-society has not come to the Court with clean

hands. It should have looked at its own conduct before knocking the doors of this Court for asserting its alleged rights. It has neither helped the sugarcane growers nor the sugar mill owners. Rather, the above table reveals that the working of respondent No.6 has come down. Respondent No.6 was utilising 50 lacs quintals of sugarcane crop in the year 2002-03 which came down to 37 lacs quintals (demanded) in the year 2003-04 and still it came down to 22 lacs quintals (demanded) in the year 2004-05. This, therefore, clearly reveals that the reasons for the down fall of the consumption of sugarcane by the sugar factory owned by respondent No.6 may be many others, but it can be one of those reasons that the petitioner-society failed to supply such quantity of sugarcane crop as was required by respondent No.6.

Not only the petitioner-Society has lost its moral right to ask this Court to exercise writ jurisdiction for directing respondent No.6 to purchase the sugarcane crop through the agency of the petitioner-society but it has also lost its legal right as per condition No.5 of agreement (form No.VIII) prescribed by the Sugarcane Rules of 1958.

Not only this, the petitioner-society has failed to recognize its duties and it has taken the pleasure of asserting its dominance over the sugar mill owners .It is apparent from the pleadings made by respondents. Respondent No.6 has pleaded in preliminary objection No.13 that the petitioner-society was required vide letter dated 29.9.2005 to furnish complete list of varietywise and canegrowerwise

sugarcane surveyed and bonded with them to enable respondent No.6 to go ahead with the computerized calendaring of the same. But unfortunately the petitioner Society failed to furnish information even after a reminder was given to them.

Even respondent Nos.1 to 4 have also pleaded in para No.8 of the written statement that the Manager of the petitioner-society vide letter dated 21.9.2005(Annexure R-2) only gave a skeleton information. The petitioner-society was again reminded vide letter dated 7.10.2005 (Annexure R-3) to furnish the information but the petitioner-Society vide letter dated 20.10.2005 (Annexure R-4) reported that vide resolution dated 19.10.2005 passed by the petitioner society the Committee has decided that the record of bonded sugarcane should not be given to any one. This correspondence not only reveals the adamant attitude of the petitioner-society but it also shows that the petitioner-society has violated the statutory provisions of Rule 11 (1) and Rule 11 (2) of the Sugarcane Rules of 1958. These Rules read as under:-

> "11. Purchase of cane grown in assigned areas-
>
> (1) The occupier or agent of a factory or society shall estimate or cause to be estimated by the 30th September each year, the sugarcane with each cane grower and shall send a copy of the same to the Cane Commissioner before the 10th of October,who after such enquiries and modifications of the estimate,as he considers

necessary,shall order these entries to be posted in the growers' register by the occupier of the factory.

(2) By the 20th October each year a cane grower, and by the 31st of October each year,a society in assigned area may offer in Form VII to supply,during the ensuing crushing season, to the occupier or agent of the factory for which the area has been assigned,cane not exceeding the quantity approved by the Cane Commissioner:

Provided that the Cane Commissioner may, for reasons to be recorded in writing,extend the date for making offers in respect of a particular season."

Even form No.VII which is the format of an application to be submitted by cane growers or sugarcane society,requires the sugarcane society to furnish specified information to the sugar mill owners and, therefore, the petitioner-society has no right to refuse to supply the information demanded from it by the sugar mill owners or by the Cane Commissioner,respondent No.4. The passing of resolution by the Committee members of the petitioner-society refusing to provide information to any one on a particular topic only reveals that the petitioner-society has no intention to see the welfare of the sugarcane growers or the progress of the sugar mill. It only wants to eat the cake and keep it up which is not the intention of law or of justice.

It was also submitted by the learned counsel for respondent No.6 that because the societies operating within the assigned area of

respondent sugar mills including the petitioner society were not in a position to supply sugarcane to meet the full requirements of the respondent sugar mills during the current crushing season and keeping in view the same the Cane Commissioner, Punjab had allotted 1 lac quintals of sugarcane from the area assigned to Bhogpur Sugar Mills vide his office letter dated 18.11.2005 and the respondent sugar mill has also been allowed to make purchases directly from the cane growers of that area. This shows the pathetic performance of the petitioner society.

For the reasons discussed above, it is held that no legal right of the petitioner-society has been violated by the Government of Punjab by re-framing, re-considering and revising the policy decision communicated vide impugned order dated 24.6.1997 and 23.9.2005. The petitioner-society has also no legal right to compel respondent No.6 to purchase the sugarcane crop from the assigned area through the agency of the petitioner-society. It has lost even the right to make such a claim by its own conduct displayed by its past performance.

In view of the discussion held above, there is no merit in the writ petition.

Dismissed.

November 7,2006. (S. N. Aggarwal)
Jaggi Judge